

AMENDMENT

IN THE CLAIMS

Please amend the claims as indicated in Appendix A submitted herewith according to the proposed revision to 37 C.F.R. §1.121 concerning a manner for making claim amendments.

REMARKS

Claims 1-6 are presently pending in the captioned application with claims 1-2 being amended.

Claims 1 and 2 have been amended to overcome various indefiniteness rejections. Support for the amendments can be found in the specification at page 4, lines 11-21 and page 18, lines 14-23. No new matter within the meaning of §132 has been added by any of the amendments.

Regarding the previous proffer to amend the specification to change a surface layer (A) formulation to a weight percent, Applicant now withdraws that proffer in view of the amended claims and upon reconsideration of the Examiner's reasons for rejection.

Applicant also provides herein a brief primer on basic polymer chemistry. Applicant hopes the background section will prove useful in aiding the Examiner to understand the basis for Applicant's arguments.

In view of the following claim amendment, background information and arguments, Applicant requests the Examiner to reconsider and allow all claims pending in this application.

Background

The purpose of the background is to acquaint the Examiner with fundamental concepts of basic polymer chemistry. The reason is due to certain surprising statements made by the Examiner in rejecting Applicant's arguments in Paper No. 9 that reflect a fundamental misunderstanding of basic polymer chemistry.

In particular, the Examiner on page 7, line 3, states that "EPDM is a **thermoplastic elastomer**". However, EPDM (ethylene propylene rubber) is **never** a thermoplastic elastomer but rather a rubber that can be copolymerized with a thermoplastic polyolefin ("TPO") to produce a thermoplastic elastomer.

Even more surprisingly, the Examiner suggests that TPO's are in fact EPDM's because the examples of TPO's in the specification include EPDM's. See page 7 at lines 7-11. By definition, a thermoplastic elastomer is the product of copolymerizing TPO and EPDM. TPO is not EPDM but a resin component of a copolymerization process that results in the thermoplastic elastomeric block copolymer of TPO and EPDM.

Applicant further points out the distinction between thermoplastic elastomers, which are reversibly cross-linked elastomers, and thermosetting elastomers, which are irreversibly cross-linked elastomers (also commonly known as vulcanized rubber).

Finally, Applicant contrasts a thermoplastic elastomer with a thermoplastic polymer. The thermoplastic elastomer is reversibly cross-linked whereas the thermoplastic polymer is not.

Applicant sincerely hopes this will aid the Examiner in understanding Applicant's arguments which were already made in the previous Response and are now being re-stated. If any questions remain, the Examiner is invited to contact Applicant's representative.

1. Proffer to Amend Specification is Withdrawn

The Office Action notes that a proffered amendment to change a surface layer (A) formulation to a weight percent was not submitted in the previous response. The proffer was made in response to a rejection in Paper no. 3 at page 3, stating:

(d) At lines 15-16, the claim recites that the ratios(a) and (b) equal "5 to 200 wt%" however these limitations are unclear given that the ratios (a) and (b) are ratios with respect to the oily softening agent to the amorphous component in elastomer (A) and (B), respectively, and hence should be expressed in

terms of a value or amount of oily softening agent based on 100 wt% amorphous component, etc.

(e) Claim 2 also recites similar limitations in terms of the ratios (a) and (b) which are unclear for similar reasons as discussed in item d above.

Applicant traversed both rejections under paragraph (d) and (e) because the claims were amended to recite ratios (a), (b), (a') and (b') of claims 1 and 2 into "62.5 wt.%" based on a 100 wt %.

However, Applicant has now amended the claims to remove the limitations at issue. Therefore, the basis for the amendment to the specification is moot and Applicant hereby withdraws the proffer to change a surface layer (A) formulation to a weight percent in the specification.

2. Rejection of Claims 1-6
under 35 U.S.C. §112, 1st paragraph

The Office Action rejects claims 1-6 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Office Action states:

Claim 1 recites the limitation "ratio (a) = 5

to 62.5 wt%, and ratio (b) = 5 to 62.5 wt%, however the instant disclosure at the time of filing does not support endpoint 62.5 wt%. The original disclosure at the time of filing states that the ratio (a) of the oily softening agent to the amorphous component or PE and amorphous component in the thermoplastic elastomer (A) = 5 to 200 wt% and likewise, the ratio (b) of the oily softening agent to the amorphous component or PE and amorphous component in the thermoplastic elastomer (B) = 5 to 200 wt%, wherein the Examiner also notes that this limitation is unclear given that a ratio is typically a dimensionless value and is not provided with any units. Further, at Page 4, lines 11-21, the original disclosure provides wt parts for the various components as follows: preferably 10 to 60 wt parts of a polyolefin resin (X), 30 to 70 wt parts of an ethylene- α -olefin-non-conjugated polyene copolymer rubber (Y) and 5 to 50 wt parts of an oily softening agent (Z), the total of X, Y and Z being 100 wt parts. Though the Applicant states that these weight parts provide support for the amended ratio range based on 100 weight parts, it is noted that the instant claims do not recite "based on 100 wt parts" and hence it appears that the claims now encompass a weight parts range for the oily content that was not previously presented.

Applicant traverses the rejection because the endpoint %62.5 is simply the mathematical equivalent of the ratio of the maximum 50 wt parts of an oily softening agent (Z) over the combined oily softening agent (Z) and the rubber component (Y). See In re Wertheim, 541 F.2d 257, 263-64, 191 USPQ 90, 97 (CCPA 1976).

Since the totals of (X), (Y) and (Z) is 100 parts by weight, the maximum of the ratios (a), (b), and (a') and (b') of claims 1

and 2 can be calculated by the following ratio:

$$\frac{50 \text{ (maximum of (Z))}}{50 \text{ (maximum of (Z))} + 30 \text{ (minimum of (Y))}} \times 100 = 62.5 \text{ wt.}\%$$

Additionally, the softening agent concentration of Example 4 in Table 2 for the surface layer (A) can be calculated by the following manner:

(i) TPO-c contains 64 wt.% of EPDM and 16 wt.% of softening agent (See Table 1, page 21). Accordingly, 70 wt. parts of TPO-c of Example 4 in Table 2 contains **44.8** wt. parts of EPDM (0.64×70) and **11.2** wt parts of a softening agent (0.16×70).

(ii) The total amount of softening agent in the surface layer (A) formulation of Example 4 is 31.2 parts by weight (11.2 wt parts + 20 wt parts of softening agent post-addition = 31.2). See Table 2.

(iii) The softening agent concentration of surface layer (A) of Example 4 can therefore be calculated by the following equation:

$$\frac{31.2}{31.2 + 44.8} \times 100 = 41. \text{ wt.}\%$$

Clearly, support can be found in the specification for ratios (a), (b), (a') and (b') of claims 1 and 2 into "62.5 wt.%" based on a 100 wt% component.

Moreover, and similar to the facts in In re Wertheim, Applicant is clearly entitled to claim a narrower range within a

broader disclosed range based on the clearly disclosed broader range. 541 F.2d at 263-64, 191 USPQ at 97.

However, the rejection is now moot in view of the presently pending claims. The claims no longer recite "ratio (a) = 5 to 62.5 wt%, and ratio (b) = 5 to 62.5 wt%". But Applicant hereby preserves the right to pursue the subject matter of the limitations in co-pending application and preserve the issue for appeal.

Since the rejection is now moot, Applicant submits that the amended claims as presently pending do not contain new matter and requests reconsideration and withdrawal of the rejection.

3. Rejection of Claims 1-6
under 35 U.S.C. §112, 2nd paragraph

The Office Action rejects claims 1-6 under 35 U.S.C. §112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Office Action states:

The claims recites the term "polyolefinic thermoplastic elastomer" however it is unclear whether this term is meant to refer to **"thermoplastic polyolefin elastomers" or TPO's** as referred to in the art or to any thermoplastic elastomer formed in part by polyolefinic monomers given that the instant disclosure at the time of filing recites examples of the "polyolefinic thermoplastic elastomer" which are referred to as "TPO-a",

"TPO-b", and "TPO-c", that actually include EPDM which is not a "TPO" as the term is recognized in the art.

Applicant refers the Examiner to the Background section. In particular, EPDM (ethylene propylene rubber) is **not** a thermoplastic elastomer but rather a rubber that can be copolymerized with a thermoplastic polyolefin ("TPO") to produce a thermoplastic elastomer.

One of ordinary skill in the art would clearly know that "polyolefinic thermoplastic elastomer" is a reversibly cross-linked elastomer whereas TPO is a thermoplastic olefin used as the resin component in an elastomeric block copolymer. Applicant notes that the Examiner's conclusion that TPO is equivalent to "thermoplastic polyolefin **elastomers**" is incorrect.

Applicant yet again reiterates that TPO is not EPDM but a resin component of a copolymerization process that results in the thermoplastic elastomeric block copolymer of TPO and EPDM. One of ordinary skill in the art would clearly understand the presently pending term "polyolefinic thermoplastic elastomer".

Therefore, the term particularly points out and distinctly claim the invention and Applicant requests the Examiner to reconsider and remove the outstanding rejection.

The Office Action continues:

The claims recite the limitation "an amorphous component", however given that the claims and

the specification does not clearly define the term, it is unclear what is meant to be encompassed by the term, "an amorphous component". While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The Examiner notes that the specification at page 18, lines 14-23, recites that the term "amorphous component...indicates the total quantity of the ethylene- α -olefin-non-conjugated polyene copolymer rubber (Y)...and the oily softening agent (Z)" and that when a "hydrocarbon type rubbery material that is not crosslinked with peroxide, such as polyisobutylene, butyl rubber and propylene-ethylene copolymer, the amorphous component indicates the total quantity obtained by adding these amount." Though this is not a clear definition and the fact that the data presented in the tables do not incorporate any of the polypropylene component in terms of these ratios though **polypropylene is similar to propylene-ethylene** which is listed by the Applicant as an example of a "hydrocarbon type rubbery material" and unless it is 100% crystalline comprises "an amorphous component", it appears that the Applicant is utilizing this term to mean something other than the accepted meaning that refers to the non-crystalline component of a polymer.

Applicant traverses the rejection because an "amorphous **component**" is not the same thing as an "amorphous **polymer**". Moreover, as stated in the previous response, Applicant yet again re-iterates that every person skilled in basic polymer chemistry understands that "polypropylene is not similar to propylene-ethylene".

In particular, one of ordinary skill in the art clearly knows that propylene-ethylene copolymer is a random copolymer of ethylene and propylene, which is **rubbery** and noncrystalline material in nature and used for toughening other polymers. On the other hand, polypropylene is a **non-rubbery** resin prepared from catalytically active propylene. Although the Examiner asserts that "unless polypropylene is 100% crystalline, it does have an amorphous component", Applicant questions how this statement is in any way relevant to the question of whether the term "an amorphous component" as defined in the claims fails to particularly point out and distinctly claim the subject matter of the invention.

However, the rejection is now moot in view of the presently pending claims. The claims no longer recite "an amorphous content". But Applicant hereby preserves the right to pursue the subject matter of the limitations in co-pending applications and preserve the issue for appeal.

Since the rejection is now moot, Applicant submits that the amended claims as presently pending particularly points out and distinctly claim the invention and requests the Examiner to reconsider and remove the outstanding rejection.

The Office Action continues:

The claim recites that the ratios (a) and (b) equal "5 to 62.5 wt.%" however these limitations are unclear given that the ratio (a) and (b) are ratios with respect to the

oily softening agent to the amorphous component in elastomer (A) and (B), respectively, and hence should be expressed in terms of a dimensionless value or an amount of oily softening agent to an amount of amorphous component, i.e. "5 to 62.5 wt% oily softening agent based on 100 wt% amorphous component", etc. The limitations are further unclear given that the specification discloses that the ratios are 5 to 200 wt% wherein considering the amount of the softening agent is part of the overall amount of amorphous component, the "ratios" (a) and (b) could not exceed 100% hence it is not clear that these values are actually "ratios" at all.

Applicant traverses the rejection. However, the rejection is now moot in view of the presently pending claims. The claims no longer recite "ratio (a) = 5 to 62.5 wt%, and ratio (b) = 5 to 62.5 wt%". But Applicant hereby preserves the right to pursue the subject matter of the limitations in co-pending applications and preserves the issue for appeal.

Since the rejection is now moot, Applicant submits that the amended claims as presently pending are definite and requests reconsideration and withdrawal of the rejection.

The Office Action continues:

Claim 2 also recites similar limitations in terms of the ratios (a') and (b') which are unclear for similar reasons as discussed above and further it is noted that the equation in Claim 2 is in conflict with the equation in the parent Claim 1 given that based on the ratio definitions "ratio (a')" in Claim 2 is the same as "ratio (a)" in Claim 1 "if polyethylene is incorporated" and "ratio (b')" in Claim 2 is the same as "ratio (b)" in Claim

1 "if polyethylene is incorporated". Therefore, the equation of Claim 2 includes values that do not satisfy the equation of Claim 1, namely the range of $0.8 \times \text{ratio (b')}$ to less than ratio (b'), given that (a') is the same as ratio (a) which must be greater than or equal to ratio (b) which is the same as ratio (b') ($a' \geq b = b'$), hence ratio (a') must be greater than or equal to ratio (b') not $0.8 \times \text{ratio (b')}$ which would be less than ratio (b').

Applicant traverses the rejection because the ratio of claim 1 is not in conflict with the ratio of claim 2. The relationship between ratio (a) and ratio (b) in claim 1 is the ratio of the oily softening agent to the **total** of an amorphous component (the rubber component and the oily softening agent) and polyethylene. In contrast, the ratio (a') and ratio (b') in claim 2 is the ratio of the oily softening agent to **only** an amorphous component (the rubber component and the oily softening agent).

In particular, the limitation of claim 1 reads:

wherein the ratio (a) of the oily softening agent (Z) to the total of the rubber component (Y) and the oily softening agent (Z), or if polyethylene is incorporated, to the **total** of the rubber component (Y), the oily softening agent (Z) and polyethylene in said thermoplastic elastomer (A) and the ratio (b) of the oily softening agent (Z') to the total of the rubber component (Y') and the oily softening agent (Z'), or if polyethylene is incorporated, to the total of the rubber

component (Y'), the oily softening agent (Z') and polyethylene in said thermoplastic elastomer (B).

In contrast, the limitation of claim 2 reads:

the ratio (a') of the oily softening agent (Z) to the total of the rubber component (Y) and the oily softening agent (Z) in said thermoplastic elastomer (A) and the ratio (b') of the oily softening agent (Z') to the total of the rubber component (Y') and the oily softening agent (Z') in said thermoplastic elastomer (B).

Clearly, the ratio (a) is not the same as the ratio (a') as asserted by the Examiner. Therefore, the Examiner's assertion that the equation of Claim 2 includes values that do not satisfy the equation of Claim 1, namely the range of $0.8 \times \text{ratio (b')}$ to less than ratio (b'), given that (a') is the same as ratio (a) which must be greater than or equal to ratio (b) which is the same as ratio (b') ($a' \geq b = b'$), hence ratio (a') must be greater than or equal to ratio (b') not $0.8 \times \text{ratio (b')}$ which would be less than ratio (b'), is incorrect.

Accordingly, Applicant submits that the presently claimed invention is definite and requests reconsideration and withdrawal of the rejection.

4. Rejection of Claims 1-6
under 35 U.S.C. §102(b)

The Office Action rejects claims 1-6 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,766,703 ("Mori et al."). The Office Action states:

based on the assumption that ratio (a) and (b) are actually weight percentages based on the total weight content of the oily, the elastomer and the polyolefin for the reasons recited in the prior Office Action wherein the **Examiner takes the position that though Mori does not specifically utilize the same terms as in the instant application, i.e., "polyolefinic thermoplastic elastomer, oily softening agents, and an amorphous content",** the disclosed examples taught by Mori et al. utilize the same materials as instantly claimed in amounts that fall within the instantly claimed wt% values and hence anticipates the instantly claimed invention (col. 1, line 14-col. 3, line 30; Examples; Tables 1-10).

Applicant respectfully traverses the rejection because the terms polyolefinic thermoplastic elastomer, oily softening agents, and an amorphous content impart patentable distinctions over Mori et al. Clearly, Mori et al. is not a proper §102(b) reference because each and every claimed limitation is not taught and no disclosure relates to specific ratios relating to an amorphous component or a thermoplastic elastomer.

Turning to the rule, the Federal Circuit has spoken clearly and at some length on the question of anticipation. Anticipation

requires that each and every element of the claimed invention be disclosed in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Those elements must be expressly disclosed as in the claim. In re Bond, 15 USPQ2d 1566 (Fed. Cir. 1990).

The prior art reference must also be enabling, thereby placing the allegedly disclosed matter in the possession of the public. In re Brown, 329 F.2d 1006, 1011, 241 USPQ 245, 249 (C.C.P.A. 1964). In order to accomplish this, the reference must be so particular and definite that from it alone, without experiment or the exertion of his own inventive skill, any person versed in the art to which it pertains could construct and use it. Id. at 250.

In the present application, presently pending claim 1 recites a surface layer comprising:

- (i) a polyolefinic thermoplastic elastomer (A) manufactured by dynamically heat treating, in the presence of a crosslinking agent, 10 to 60 wt. parts of a polyolefin resin (X), 30 to 70 wt. parts of a rubber component (Y) comprising at least an ethylene- α -olefin-non-conjugated polyene copolymer rubber and 5 to 50 wt. parts of an oily softening agent (Z), the total of (X), (Y) and (Z) being 100 wt. parts, and
- (ii) an underlayer comprising a polyolefinic thermoplastic

elastomer (B) manufactured by dynamically heat treating, in the presence of a crosslinking agent, 10 to 60 wt. parts of a polyolefin resin (X'), 30 to 70 wt. parts of a rubber component (Y') comprising at least an ethylene- α -olefin-non-conjugated polyene copolymer rubber and 5 to 50 wt. parts of an oily softening agent (Z'), the total of (X'), (Y') and (Z') being 100 wt. parts, which underlayer is laminated on the surface layer, satisfying the ratio

$$\text{ratio}(a) \geq \text{ratio}(b).$$

Mori et al. clearly fails to teach each and every claimed limitation insofar as failing to disclose the specifically claimed ratios. Additionally, Mori et al. only relates to **thermosetting** elastomers such as ethylene propylene rubbers ("EPDM"). See Mori et al. at Col 1, lines 18, 29-31, and 65. In contrast, the present invention relates to **thermoplastic** elastomers.

Again, Applicant invites the Examiner to undertake a study of the Background section. **Thermoplastic** elastomers are reversibly cross-linked elastomers whereas **thermosetting** elastomers are **irreversibly** cross-linked elastomers, more commonly known as vulcanized rubber).

Although the Examiner states on page 7, line 3, that "EPDM is a **thermoplastic elastomer**", Applicant notes that EPDM (ethylene propylene rubber) is **not** a thermoplastic elastomer but rather a

rubber that can be copolymerized with a thermoplastic polyolefin ("TPO") to produce a thermoplastic elastomer.

Moreover, a thermoplastic elastomer is by definition the product of copolymerizing TPO and EPDM. TPO is not EPDM but a resin component of a copolymerization process that results in the thermoplastic elastomeric block copolymer of TPO and EPDM. Both have different chemical structures and are well acknowledged in the art to be a separate classes of compounds. Clearly, TPO's are not EPDM's. Nowhere does Mori et al. teach the limitations directed to an amorphous content or that ratios effect the desirable features of the presently claimed invention.

Accordingly, Applicant submits that each and every claim limitation is not taught by Mori et al. and requests the Examiner to reconsider and withdraw the §102(b) rejection.

3. Rejection of Claims 1-6
under 35 U.S.C. §103(a)

The Office Action rejects claims 1-6 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,766,703 ("Mori et al.").

The Office Action states:

Though Mori et al. do not specifically limit the amount of lubricants (oily softening agent) in the coextruded layers as instantly claimed, it would have been obvious to one having ordinary skill in the art to utilize

routine experimentation to determine the optimum amount of lubricants or additives to compound into the rubber materials to provide the desired lubricating or additive property for a particular end use given that the amount is a result-effective property based on the property of the respective additive.

Applicant respectfully traverses this rejection because all the claimed limitations have not been taught by the cited references. Even assuming *arguendo* that a *prima facie* case has been made out, the Office Action fails to provide a convincing line of reasoning that would provide any suggestion or motivation to make the claimed invention. Clearly, the lack of any convincing line of reasoning to vary the ratio of an oily softening agent in relation to an amorphous component of a thermoplastic elastomer such as a thermoplastic polyolefins ("TPO") renders the claimed invention unobvious over the cited reference.

Turning to the rule, the Federal Circuit held that a *prima facie* case of obviousness must establish: (1) some suggestion or motivation to modify the references; (2) a reasonable expectation of success; and (3) that the prior art references teach or suggest all claim limitations. Amgen, Inc. v. Chugai Pharm. Co., 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); In re Fine, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); In re Wilson, 165 USPQ 494, 496 (C.C.P.A. 1970).

A *prima facie* case of obviousness must also include a showing of the reasons why it would be obvious to modify the references to

produce the present invention. See Ex parte Clapp, 277 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). The Examiner bears the initial burden to provide some convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings. Id. at 974.

In the present application, presently pending claim 1 recites a surface layer comprising:

(i) a polyolefinic thermoplastic elastomer (A) manufactured by dynamically heat treating, in the presence of a crosslinking agent, 10 to 60 wt. parts of a polyolefin resin (X), 30 to 70 wt. parts of a rubber component (Y) comprising at least an ethylene- α -olefin-non-conjugated polyene copolymer rubber and 5 to 50 wt. parts of an oily softening agent (Z), the total of (X), (Y) and (Z) being 100 wt.

parts, and

(ii) an underlayer comprising a polyolefinic thermoplastic elastomer (B) manufactured by dynamically heat treating, in the presence of a crosslinking agent, 10 to 60 wt. parts of a polyolefin resin (X'), 30 to 70 wt. parts of a rubber component (Y') comprising at least an ethylene- α -olefin-non-conjugated polyene copolymer rubber and 5 to 50 wt. parts of an oily softening agent (Z'), the total of (X'), (Y') and (Z') being 100 wt. parts, which underlayer is laminated on

the surface layer, satisfying the ratio
 $\text{ratio}(a) \geq \text{ratio}(b)$.

Nowhere does Mori et al. teach varying the ratio (a) of the oily softening agent to an amorphous component. Moreover, there is absolutely no suggestion or motivation provided in the reference to lead one of ordinary skill to make such variations.

Mori et al. clearly fails to teach each and every claimed limitation insofar as failing to disclose the specifically claimed ratios. Additionally, Mori et al. only relates to **thermosetting** elastomers such as ethylene propylene rubbers ("EPDM"). See Mori et al. at Col 1, lines 18, 29-31, and 65. In contrast, the present invention relates to **thermoplastic** elastomers.

Again, Applicant invites the Examiner to undertake a study of the Background section. **Thermoplastic** elastomers are reversibly cross-linked elastomers whereas **thermosetting** elastomers are **irreversibly** cross-linked elastomers.

But even assuming *arguendo* that a *prima facie* case has been established, Applicant provides evidence of unexpected results in Table 2 of the specification.. In particular, the claimed compositions do not exhibit stickiness as compared to the comparative examples. For example, compositions having a ratio of an oily softening agent to amorphous component falling outside the claimed limitations have undesirable characteristics. See Table 2.

In contrast, the claimed compositions demonstrate unexpectedly decreased stickiness. As the court stated in In re Corkill, "a greater than expected result is an evidentiary factor pertinent to the legal conclusion of [non]obviousness". 711 F.2d 1496, 266 USPQ 1005 (Fed. Cir. 1985). Desirable non-stickiness through manipulation of an oily softening agent to amorphous component simply would not have been expected from the teachings of the prior art.

Applicant has demonstrated a significant, practical advantage over the prior art compositions. Clearly, a manipulation in ratios previously thought to be non-critical constitutes an indicia of nonobviousness that confers patentability upon Applicant's presently claimed invention.

Accordingly, Applicant submits that the presently claimed invention is unobviousness over the cited references and respectfully requests reconsideration and withdrawal of the rejections of claims 1-6 under 35 U.S.C. §103.

CONCLUSION


In light of the foregoing, Applicant submits that the application is now in condition for allowance. The Examiner is therefore respectfully requested to reconsider and withdraw the

rejection of the pending claims and allow the pending claims.
Favorable action with an early allowance of the claims pending is
earnestly solicited.

Respectfully submitted,

SHERMAN AND SHALLOWAY

SHERMAN AND SHALLOWAY
413 N. Washington Street
Alexandria, Virginia 22314
703-549-2282


Attorney for Applicants
Roger C. Hahn
Reg. No. 46,376